

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

Phillip L. Jones,	:	Case No. 5:19 CV 2063
	:	
Petitioner,	:	
	:	MEMORANDUM OF OPINION & ORDER
vs.	:	
	:	
Tim Shoop, Warden,	:	JUDGE SOLOMON OLIVER, JR.
	:	
Respondent.	:	

On June 24, 2020, Petitioner Phillip Jones filed in this Court a petition for writ of habeas corpus under 28 U.S.C. § 2254. (ECF No. 11.) On October 29, 2021, he filed with permission an amended petition. (ECF No. 35.)

On February 3, 2022, Jones filed a motion to stay this case and hold it in abeyance so that he could exhaust two of his claims in state court. (ECF No. 37.) Respondent opposed the motion on two grounds: (1) Jones does not seek to exhaust his eight unexhausted “shell” claims, leaving his amended petition ripe for dismissal as an impermissible “mixed petition” with both exhausted and unexhausted claims; and (2) there are no remedies available for Jones to pursue in state court for the two claims he now wishes to exhaust there. (ECF No. 38.) Jones then filed a motion for leave to file a second amended petition, so that he can drop the shell claims. (ECF No. 40.) He

stated that he will then “renew” his motion to stay. (*Id.* at 1.)

Respondent has now filed an unopposed motion for extension of time to file his return of writ to the amended petition, which is due on March 28, 2022 pursuant to the court’s current scheduling order.

The court rules as follows:

1. Petitioner’s motion to stay is denied without prejudice. Petitioner may renew the motion at the appropriate time.
2. Petitioner’s motion for leave to file a second amended petition is granted.
Petitioner is ordered to file the petition within thirty days of this order.
3. Respondent’s motion for extension of time is denied as moot due to the court’s granting Petitioner leave to file an amended petition.
4. The court will issue an amended scheduling order upon Petitioner filing his second amended complaint.

IT IS SO ORDERED.

Dated: March 25, 2022

/s/ Solomon Oliver, Jr.
SOLOMON OLIVER, JR.
UNITED STATES DISTRICT JUDGE